

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (Philadelphia)**

IN RE:	:	
MICHAEL CLEMENTE	:	BK. No. 17-14638-JKF
	Debtor	
	:	
U.S. BANK NATIONAL ASSOCIATION	:	Chapter No. 13
	Movant	
	:	
	v.	
MICHAEL CLEMENTE	:	
	Respondent	11 U.S.C. §362
	:	
	:	

**MOTION OF U.S. BANK NATIONAL ASSOCIATION FOR RELIEF FROM AUTOMATIC
STAY UNDER §362 PURSUANT TO BANKRUPTCY PROCEDURE RULE 4001**

Movant, by its attorneys, PHELAN HALLINAN DIAMOND & JONES, LLP, hereby requests a termination of Automatic Stay and leave to foreclose on its mortgage on real property owned by Debtor MICHAEL CLEMENTE.

1. Movant is **U.S. BANK NATIONAL ASSOCIATION**.
2. Debtor, MICHAEL CLEMENTE is the owner of the premises located at **5941 ELSINORE STREET, PHILADELPHIA, PENNSYLVANIA 19120**, hereinafter known as the mortgaged premises.
 3. Movant is the holder of a mortgage on the mortgaged premises.
 4. Debtor's failure to tender monthly payments in a manner consistent with the terms of the Mortgage and Note result in a lack of adequate protection.
 5. Movant wishes to institute foreclosure proceedings on the mortgage because of Debtor's failure to make the monthly payment required hereunder.
 6. The foreclosure proceedings to be instituted were stayed by the filing of the instant Chapter 13 Petition.
 7. As of January 19, 2018, Debtor has failed to tender post-petition mortgage payments for the months of September 2017 through January 2018. The monthly payment amount for the months of September 2017 through January 2018 is \$614.85, less suspense in the amount of \$215.15, for a total amount due of \$2,859.10. The next payment is due on or before February 1, 2018

in the amount of \$614.85. Under the terms of the Note and Mortgage, Debtor has a continuing obligation to remain current post-petition and failure to do so results in a lack of adequate protection to Movant.

8. Movant has cause to have the Automatic Stay terminated as to permit Movant to complete foreclosure on its mortgage.

9. Movant specifically requests permission from the Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law.

10. Movant requests that Federal Rule of Bankruptcy Procedure 3002.1 be waived.

WHEREFORE, Movant respectfully requests that this Court enter an Order;

a. Modifying the Automatic Stay under Section 362 with respect to **5941 ELSINORE STREET, PHILADELPHIA, PENNSYLVANIA 19120** (as more fully set forth in the legal description attached to the Mortgage of record granted against the Premises), as to allow Movant, its successors and assignees, to proceed with its rights under the terms of said Mortgage; and

b. Movant specifically requests permission from this Honorable Court to communicate with Debtor and Debtor's counsel to the extent necessary to comply with applicable nonbankruptcy law; and

c. Waiving Federal Rule of Bankruptcy Procedure 3002.1; and

d. Granting any other relief that this Court deems equitable and just.

/s/ Thomas Song, Esquire
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February 5, 2018